

1-1 By: Harris S.B. No. 1661
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 14, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 14, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1661 By: Harris

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to child support liens on real property.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter G, Chapter 157, Family Code, is
1-13 amended by adding Section 157.3171 to read as follows:

1-14 Sec. 157.3171. RELEASE OF LIEN ON HOMESTEAD PROPERTY.

1-15 (a) An obligor who believes that a child support lien has attached
1-16 to real property of the obligor that is the obligor's homestead, as
1-17 defined by Section 41.002, Property Code, may file an affidavit to
1-18 release the lien against the homestead in the same manner that a
1-19 judgment debtor may file an affidavit under Section 52.0012,
1-20 Property Code, to release a judgment lien against a homestead.

1-21 (b) Except as provided by Subsection (c), the obligor must
1-22 comply with all requirements imposed by Section 52.0012, Property
1-23 Code. For purposes of complying with that section, the obligor is
1-24 considered to be a judgment debtor under that section and the
1-25 claimant under the child support lien is considered to be a judgment
1-26 creditor under that section.

1-27 (c) For purposes of Section 52.0012(d)(2), Property Code,
1-28 and the associated text in the affidavit required by Section
1-29 52.0012(f), Property Code, the obligor is required only to send the
1-30 letter and affidavit described in those provisions to the claimant
1-31 under the child support lien at the claimant's last known address.

1-32 (d) The claimant under the child support lien may dispute
1-33 the obligor's affidavit by filing a contradicting affidavit in the
1-34 manner provided by Section 52.0012(e), Property Code.

1-35 (e) Subject to Subsection (f), an affidavit filed by an
1-36 obligor under this section has the same effect with respect to a
1-37 child support lien as an affidavit filed under Section 52.0012,
1-38 Property Code, has with respect to a judgment lien.

1-39 (f) If the claimant files a contradicting affidavit as
1-40 described by Subsection (d), the issue of whether the real property
1-41 is subject to the lien must be resolved in an action brought for
1-42 that purpose in the district court of the county in which the real
1-43 property is located and the lien was filed.

1-44 SECTION 2. Section 157.318, Family Code, is amended by
1-45 amending Subsection (a) and adding Subsection (d) to read as
1-46 follows:

1-47 (a) Subject to Subsection (d), a [A] lien is effective until
1-48 all current support and child support arrearages, including
1-49 interest, any costs and reasonable attorney's fees, and any Title
1-50 IV-D service fees authorized under Section 231.103 for which the
1-51 obligor is responsible, have been paid or the lien is otherwise
1-52 released as provided by this subchapter.

1-53 (d) A lien is effective with respect to real property until
1-54 the 10th anniversary of the date on which the lien notice was filed
1-55 with the county clerk. A lien subject to the limitation prescribed
1-56 by this subsection may be renewed for subsequent 10-year periods by
1-57 filing a renewed lien notice in the same manner as the original lien
1-58 notice. For purposes of establishing priority, a renewed lien
1-59 notice filed before the applicable 10th anniversary relates back to
1-60 the date the original lien notice was filed. A renewed lien notice
1-61 filed on or after the applicable 10th anniversary has priority over
1-62 any other lien recorded with respect to the real property only on
1-63 the basis of the date the renewed lien notice is filed.

2-1 SECTION 3. Subsection (h), Section 231.002, Family Code, is
2-2 repealed.
2-3 SECTION 4. The changes in law made by this Act to Section
2-4 157.318, Family Code, apply only to a child support lien notice that
2-5 is filed on or after the effective date of this Act.
2-6 SECTION 5. This Act takes effect immediately if it receives
2-7 a vote of two-thirds of all the members elected to each house, as
2-8 provided by Section 39, Article III, Texas Constitution. If this
2-9 Act does not receive the vote necessary for immediate effect, this
2-10 Act takes effect September 1, 2009.

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